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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/633,682	08/05/2003	Takunori Iki	116507	6875
25944	7590	09/22/2005		
OLIFF & BERRIDGE, PLC P.O. BOX 19928 ALEXANDRIA, VA 22320			EXAMINER GHYKA, ALEXANDER G	
			ART UNIT 2812	PAPER NUMBER

DATE MAILED: 09/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/633,682

Applicant(s)

IKI ET AL.

Examiner

Alexander G. Ghyska

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-13 and 15 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1, 3-13 and 15 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

ALEXANDER GHYKA
PRIMARY EXAMINER

AV 2812
Alex Ghyska

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

The Terminal Disclaimer submitted on June 29, 2005 obviates the double patenting rejection of the previous Office action. The following new rejections are made. Accordingly, this Office action is a NON-Final rejection.

Double Patenting

A rejection based on double patenting of the "same invention" type finds its support in the language of 35 U.S.C. 101 which states that "whoever invents or discovers any new and useful process ... may obtain a patent therefor ..." (Emphasis added). Thus, the term "same invention," in this context, means an invention drawn to identical subject matter. See *Miller v. Eagle Mfg. Co.*, 151 U.S. 186 (1894); *In re Ockert*, 245 F.2d 467, 114 USPQ 330 (CCPA 1957); and *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970).

A statutory type (35 U.S.C. 101) double patenting rejection can be overcome by canceling or amending the conflicting claims so they are no longer coextensive in scope. The filing of a terminal disclaimer cannot overcome a double patenting rejection based upon 35 U.S.C. 101.

Claims 1, 3-13 and 15 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-21 of copending Application No. 10/690,270. Although the conflicting claims are not identical, they are not patentably distinct from each other because, it would be obvious to one of ordinary skill in the art, at the time of the invention, that the present claims are encompassed by the claims of 10/690,270, as the claims of 10/690,270 require, data lines, scanning lines, electrodes, storage capacitors, thin film transistors and nitride layers along the data line.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 3-13 and 15 are rejected under 35 U.S.C. 102(e) as being anticipated by Song et al (US 6,781,651).

The present Claims generally require an electro-optical device comprising thin film transistors provided above a substrate, each including a semiconductor layer; and capacitors formed above the thin film transistors, each of the capacitors comprising a first electrode electrically connected to a part of the semiconductor layer, a second electrode arranged to face the first electrode, and a dielectric film including a nitride film arranged between the first electrode and the second electrode; the nitride film having an aperture formed vertically above the semiconductor layer in plan view.

Song discloses an electro-optical device comprising (see at least Figure 1 and its detailed descriptions); a substrate; data lines **62** extending in a first direction; scanning lines **22** extending in a second direction and intersecting the data lines; pixel electrodes

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82 and thin film transistors disposed so as to correspond to intersection regions of the data lines and the scanning lines; storage capacitors above and electrically connected to the thin film transistors and the pixel electrodes (see column 3, lines 59-64); shielding layer (**90, 92**) disposed between the data lines and the pixel electrodes, nitride films (column 3, lines 24-25) being included in the shielding layers and formed along the data lines and being wider than the data lines (containing an aperture). Moreover, Song et al disclose interlayer-insulating films (**100, 82**) arranged as bases of the pixel electrodes (Figures 1-2). Furthermore, Song et al disclose relay layers (column 3, lines 60-67) being electrically connected to the pixel electrodes and one pair of electrodes. Therefore, Song et al anticipate the present Claims.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alexander G. Ghyka whose telephone number is (571) 272-1669. The examiner can normally be reached on Monday through Thursday during general business hours.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Lebentritt can be reached on (571) 272-1873. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

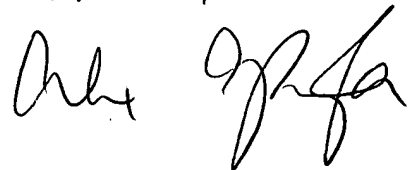
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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

AGG
September 17, 2005

ALEXANDER GHYKA
PRIMARY EXAMINER

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Handwritten signatures of Alexander Ghyska and another individual.